

ARGUMENTS/COMMENTS

Claims 1 through 8 are pending in the present application. Claims 1 and 7 have been amended.

In the Office Action, claims 1 through 8 were rejected under 35 U.S.C.103(a) as being unpatentable over U.S Patent No.3,625,029 to Safrit et al. (hereinafter "the Safrit et al. patent").

Claim 1 is directed to a boxer short-type article of lingerie having an inseam. The article has a trunk made of a loose-fitting non-elasticized textile, and leg parts made of a form-fitting textile. The trunk and the leg parts are unitary in construction and are separated by a line passing through an upper part of the inseam.

The Office Action states that the Safrit et al. patent teaches the boxer short type article as claimed "having a trunk part (11) being made from a loose fitting material and leg parts (14) made of a form-fitting textile. Applicant disagrees with this statement. In contrast, the Safrit et al. patent recites that "preferably, the garment is knit throughout with one of the many well known stretch yarns." (Col. 2, lines 44-45). Further, at Figs. 1 and 12, the Safrit et al. patent discloses that the garment is a close fitting garment. The Safrit et al. patent discloses "a girdle panty [that] supports the stockings during wear by knitted elastic fabric means". (Col. 1, lines 60 -62). Girdles by their nature are close fitting garments. The teachings of the Safrit et al. patent are in direct contrast to the loose-fitting non-elasticized textile recited in claim 1. Reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection are respectfully requested.

The Office Action further states that the article is circularly knit. The article of the Safrit et al. patent is actually a cut-and-sew garment as shown in Figs. 5 and 6 made from knit components. In contrast, the claimed boxer-short type article is unitary in construction. The unitary construction offers a better appearance beneath clothing as well as a looser fit in comparison to the cut and sew garment of the Safrit et al. patent. Reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection are respectfully requested.

Dependent claims 2 through 6 that depend from independent claim 1 are also allowable for the reasons set forth above with respect to claim 1.

Independent claim 7 is directed to a method of manufacturing a boxer short-type article of lingerie having a trunk part and an inseam being made of a loose-fitting textile and leg parts being made of a form-fitting textile. The method comprises circular knitting a bottom welt and a waistband, and knitting the leg part with a yarn having an elasticity higher than the elasticity of the yarn used for knitting the trunk part. The trunk part is knitted from a non-elasticized yarn. The trunk and the leg parts are knitted from the same textile material and are separated by a line passing through an upper part of the inseam.

The Safrit et al. patent does not disclose or suggest a method of manufacturing a boxer short as claimed that provides for knitting the leg part with a yarn having an elasticity higher than the elasticity of the yarn used for knitting the trunk part to thus provide a trunk part, the trunk part being knitted from a non-elasticized yarn. As

discussed above, the Safrit et al. patent discloses that "preferably, the garment is knit throughout with one of the many well known stretch yarns."

The Safrit et al. patent also does not disclose that the trunk part and the panty parts are knitted from the same textile material. The Safrit et al. patent discloses a cut-and-sew garment that is connected to form the garment as shown in Figs. 5 and 6.

Further, the Office Action also states that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the location of the line between the loose fitting upper garment and the tighter fitting lower part passing through an upper part of the inseam in order to provide the additional support of the tighter fitting portion at a higher point on the wearer's body." (Page 3) Applicant respectfully disagrees with this conclusion.

First, the Safrit et al. patent does not disclose a loose fitting upper garment. In contrast, the Safrit et al. patent discloses a girdle that is close fitting as shown in Figs. 1 and 12.

Further, the area 14 of the article of the Safrit patent is knitted to "contract in the vertical direction to thereby engage folds of the stocking top between the vertically spaced elastic gripper yarns." (Col. 2, lines 50-54). By relocating the line between the loose fitting upper garment and the tighter fitting lower garment to "provide the additional support of the tighter fitting portion at a higher point on the wearer's body", the function of the garment would be compromised.

Indeed, region 14 of the garment is to interface with region 23 of the stocking, whether the stocking covers or is covered by the panty. (Col. 4, lines 48-62). Were the inseam disposed at a higher location on the garment, it would interfere with crotch pieces 28 and 68 of garments 9 and 71, respectively. This location of the inseam would create substantial discomfort to the user because the girdle and the leg parts would both be elasticized.

Further, region 14 is not to provide additional support to a tighter fitting portion at a higher point on the wearer's body. In contrast, the purpose of region 14 is to contract in a vertical direction to maintain a position of region 23 of the stocking 21. Were region 14 disposed at the inseam, it would not interface with region 23 of the stocking, thus rendering the garment inoperative. Fig. 12)

One of ordinary skill in the art would not relocate the position of the inseam as suggested in the office action. Accordingly, the Safrit et al. patent does not make obvious the claimed subject matter. Reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection are respectfully requested.

Claim 8 depends from independent claim 7 and is also allowable for the reasons set forth above with respect to claim 7.

Accordingly, applicants respectfully request favorable consideration of this application.

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Respectfully submitted,

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